
HOUSE BILL 1029

State of Washington 60th Legislature 2007 Regular Session

By Representatives B. Sullivan, Linville and Morris

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Committee on Technology, Energy & Communications.

1 AN ACT Relating to defining E85 motor fuel; and amending RCW
2 19.112.010, 19.112.120, 82.04.4334, and 82.08.955.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 19.112.010 and 2006 c 338 s 15 are each amended to
5 read as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Biodiesel fuel" means the monoalkyl esters of long chain fatty
9 acids derived from plant or animal matter that meet the registration
10 requirements for fuels and fuel additives established by the federal
11 environmental protection agency and standards established by the
12 American society of testing and materials.

13 (2) "Diesel" means special fuel as defined in RCW 82.38.020, and
14 diesel fuel dyed in accordance with the regulations in 26 C.F.R. Sec.
15 48.4082-1T as of October 24, 2005.

16 (3) "Director" means the director of agriculture.

17 (4) "E85 motor fuel" means an alternative fuel that is a blend of
18 denatured ethanol and hydrocarbon that typically contains eighty-five

1 percent ethanol by volume, but at a minimum must contain seventy
2 percent ethanol by volume, and complies with ASTM specification
3 D5798-99.

4 (5) "Motor fuel" means any liquid product used for the generation
5 of power in an internal combustion engine used for the propulsion of a
6 motor vehicle upon the highways of this state, and any biodiesel fuel.
7 Motor fuels containing ethanol may be marketed if either (a) the base
8 motor fuel meets the applicable standards before the addition of the
9 ethanol or (b) the resultant blend meets the applicable standards after
10 the addition of the ethanol.

11 **Sec. 2.** RCW 19.112.120 and 2006 c 338 s 3 are each amended to read
12 as follows:

13 (1) By December 1, 2008, motor vehicle fuel licensees under chapter
14 82.36 RCW, other than motor vehicle fuel distributors, shall provide
15 evidence to the department of licensing that at least two percent of
16 total gasoline sold in Washington, measured on a quarterly basis, is
17 denatured ethanol.

18 (2) If the director of ecology determines that ethanol content
19 greater than two percent of the total gasoline sold in Washington will
20 not jeopardize continued attainment of the federal clean air act's
21 national ambient air quality standard for ozone pollution in Washington
22 and the director of agriculture determines and publishes this
23 determination in the Washington State Register that sufficient raw
24 materials are available within Washington to support economical
25 production of ethanol at higher levels, the director of agriculture may
26 require by rule that licensees provide evidence to the department of
27 licensing that denatured ethanol comprises between two percent and at
28 least ten percent of total gasoline sold in Washington, measured on a
29 quarterly basis.

30 (3) The requirements of subsections (1) and (2) of this section
31 shall take effect no sooner than one hundred eighty days after the
32 determination has been published in the Washington State Register.

33 (4) The director and the director of licensing shall each adopt
34 rules, in coordination with each other, for enforcing and carrying out
35 the purposes of this section.

36 (5) Nothing in this section is intended to prohibit the production,
37 sale, or use of motor fuel for use in federally designated flexibly

1 fueled vehicles capable of using (~~up to eighty five percent ethanol~~
2 ~~fuel blends~~) E85 motor fuel. Nothing in this section is intended to
3 limit the use of high octane gasoline not blended with ethanol for use
4 in aircraft.

5 **Sec. 3.** RCW 82.04.4334 and 2003 c 63 s 1 are each amended to read
6 as follows:

7 (1) In computing tax there may be deducted from the measure of tax
8 amounts received from the retail sale, or for the distribution, of:

9 (a) Biodiesel fuel; or

10 (b) (~~Alcohol fuel, if the alcohol fuel is at least eighty five~~
11 ~~percent of the volume of the fuel being sold or distributed~~) E85 motor
12 fuel.

13 (2) For the purposes of this section and RCW 82.08.955 and
14 82.12.955, the following definitions apply:

15 (a) "Biodiesel fuel" means a mono alkyl ester of long chain fatty
16 acids derived from vegetable oils or animal fats for use in
17 compression-ignition engines and that meets the requirements of the
18 American society of testing and materials specification D 6751 in
19 effect as of January 1, 2003.

20 (b) (~~"Alcohol fuel" means any alcohol made from a product other~~
21 ~~than petroleum or natural gas, which is used alone or in combination~~
22 ~~with gasoline or other petroleum products for use as a fuel for motor~~
23 ~~vehicles, farm implements and machines, or implements of husbandry.~~)

24 "E85 motor fuel" means an alternative fuel that is a blend of denatured
25 ethanol and hydrocarbon that typically contains eighty-five percent
26 ethanol by volume, but at a minimum must contain seventy percent
27 ethanol by volume, and complies with ASTM specification D5798-99.

28 (c) "Distribution" means any of the actions specified in RCW
29 82.36.020(2).

30 (3) This section expires July 1, 2009.

31 **Sec. 4.** RCW 82.08.955 and 2003 c 63 s 2 are each amended to read
32 as follows:

33 (1) The tax levied by RCW 82.08.020 does not apply to sales of
34 machinery and equipment, or to services rendered in respect to
35 constructing structures, installing, constructing, repairing, cleaning,
36 decorating, altering, or improving of structures or machinery and

1 equipment, or to sales of tangible personal property that becomes an
2 ingredient or component of structures or machinery and equipment, if
3 the machinery, equipment, or structure is used directly for the retail
4 sale of a biodiesel (~~(or alcohol fuel)~~) blend or E85 motor fuel.
5 Structures and machinery and equipment that are used for the retail
6 sale of a biodiesel (~~(or alcohol fuel)~~) blend or E85 motor fuel and for
7 other purposes are exempt only on the portion used directly for the
8 retail sale of a biodiesel (~~(or alcohol fuel)~~) blend or E85 motor fuel.

9 (2) The tax levied by RCW 82.08.020 does not apply to sales of fuel
10 delivery vehicles or to sales of or charges made for labor and services
11 rendered in respect to installing, repairing, cleaning, altering, or
12 improving the vehicles including repair parts and replacement parts if
13 at least seventy-five percent of the fuel distributed by the vehicles
14 is a biodiesel (~~(or alcohol fuel)~~) blend or E85 motor fuel.

15 (3) A person taking the exemption under this section must keep
16 records necessary for the department to verify eligibility under this
17 section. The exemption is available only when the buyer provides the
18 seller with an exemption certificate in a form and manner prescribed by
19 the department. The seller shall retain a copy of the certificate for
20 the seller's files.

21 (4) For the purposes of this section, the definitions in RCW
22 82.04.4334 and this subsection apply.

23 (a) (~~("Alcohol fuel blend" means fuel that contains at least~~
24 ~~eighty five percent alcohol fuel by volume.~~

25 ~~(b)~~) "Biodiesel blend" means fuel that contains at least twenty
26 percent biodiesel fuel by volume.

27 (b) "E85 motor fuel" means an alternative fuel that is a blend of
28 denatured ethanol and hydrocarbon that typically contains eighty-five
29 percent ethanol by volume, but at a minimum must contain seventy
30 percent ethanol by volume, and complies with ASTM specification
31 D5798-99.

32 (c) "Machinery and equipment" means industrial fixtures, devices,
33 and support facilities and tangible personal property that becomes an
34 ingredient or component thereof, including repair parts and replacement
35 parts that are integral and necessary for the delivery of biodiesel
36 (~~(or alcohol fuel)~~) blends or E85 motor fuel into the fuel tank of a

1 motor vehicle.

2 (5) This section expires July 1, 2009.

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